

“Creating, Disseminating, Using, and Preserving Legal Information in Challenging Times”

**Sponsored by the American Association of Law Libraries
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Law Librarians’ Responses to Questions for Discussion, Arranged by Topic

Introduction

The Planning Committee decided that one of the best ways to generate a discussion for the Colloquium was to ask law librarians themselves what questions and comments they might have for vendors regarding the current climate and practices of the legal publishing industry. In November 2010, the Planning Committee Chair asked the leaders of three of AALL’s Special Interest Sections to have their members respond to the following two open-ended questions:

- 1. If you had an opportunity to ask legal information vendors 5 questions about their institution and legal publishing trends, what would they be? (Day 1, Presentation 5)**
- 2. What 5 things would you like to tell legal information vendors about your library and its users? (Day 1, Presentation 2)**

The scheduled presentations on Day 1 of the Colloquium will provide an opportunity for librarians to give their own individual reflections and summaries of responses to these questions. During Presentation 2, three speakers—representing academic, private law firm, and court libraries—will address the second question above. Then, in Presentation 5, they will highlight their highest priority topics or responses generated by the first question above.

The responses from a cross-section of librarians working in academic, private law firm, and court libraries are set forth below in order to provide additional context and easy reference for discussion at the Colloquium. The responses have been edited and condensed to spur conversation during the dialogue sessions. The initial unedited responses (without attribution) are available upon request.

Importantly, the responses are grouped around the general themes that emerged during this process. Included for each theme is a brief note that describes why the theme is important to law librarians.

In addition to these questions, Colloquium participants also should become familiar with AALL’s applicable guidelines and public policies, all of which are available here: <http://www.aallnet.org/about/policy.asp>. Five of these are particularly relevant to the topic at hand and will serve as foundation documents for the discussions at the Colloquium:

- The Competencies of Law Librarianship

- The AALL Ethical Principles
- The AALL Preservation Policy
- The Guide to Fair Business Practices for Legal Publishers
- The Principles for Licensing Electronic Resources

1. If you had an opportunity to ask legal information vendors 5 questions about legal publishing trends, what would they be?

1.1. Vendors' Strategic Planning: Corporate Sustainability and Growth

Rationale: Law librarians rely on the availability of content in order to serve our customers, so we have a continuing interest in the sustainable "supply" of content from vendors.

1.1.1. Librarians recognize the importance of professional publishing in the legal information environment. Consequently, law librarians are concerned about the perceived challenges that vendors face now and in the coming years. What are the five (5) most significant challenges facing the legal publishing sector? What products or practices do vendors see as their most profitable responses to these challenges?

1.1.2. Librarians strive to evolve and improve their services based on analysis of both successes and failures, just like other businesses. With the advantage of hindsight, what are the most significant lessons that vendors have learned since the advent of digital information 30 years ago? How have vendors incorporated these learning experiences into their products and into their long-term plans for product development?

1.1.3. Law librarians serve a wide variety of users, some of whom, such as self-represented litigants, appear underserved by traditional legal publications. These library users are a potential new market for vendors. Do vendors have plans to provide material for this group of users? Are there other markets that vendors have identified as potential growth areas? How can vendors work with law librarians to develop products to better meet the needs of library customers in these new market areas?

1.1.4. Recent years have seen a dramatic turnaround in the fortunes of major American companies, such as General Motors. Given this profoundly uncertain economic climate, how might vendors ensure long-term access for both print and digital publications if vendors' corporate structures change?

1.2. Vendors' Strategic Planning: Format Changes

Rationale: The format of information has a profound impact on libraries and librarians in terms of planning budgets, space allocation and training programs. Consequently, librarians greatly appreciate information about changes to—and continuations of—information formats.

1.2.1. Librarians expect that library customers will continue to ask for information in digital formats, although a core group will prefer print resources, for a variety of

reasons, for the foreseeable future. What are vendors' expectations regarding the availability of print and electronic formats during the next several years? Ten years from now, would vendors anticipate more reliance on electronic legal information, about the same amount, or less?

- 1.2.2. Law librarians tend to expect that online versions will have similar access potential as the print versions. For example, an unlimited number of library users can walk up to a book (at different times) and use it. Librarians often wish that online access were as flexible. How can vendors devise database subscription plans that encompass a wide variety of library types and library users, especially those database subscriptions, such as IP authenticated access, that more closely match the access points granted by the print?
- 1.2.3. Librarians and library users occasionally see discrepancies, such as different updating cycles, between the print version and the digital version of the same publication. Such discrepancies make proper citation challenging. Additionally, some library users prefer print for its ease-of-use when compared to databases with poorly-conceived navigation that might lack tables of contents, headings, and indexes. How can vendors work with librarians and library users to ensure consistency when an information resource is published in multiple formats?
- 1.2.4. Law librarians continue to debate the merits of printed looseleaf publications. Therefore, they are particularly interested in vendors' plans for this specific format type. Do vendors anticipate that this format will continue? Will annual paperback editions, annual pamphlet binder inserts, or some other format replace page-by-page supplementation? If page-by-page supplementation continues, how can vendors work to make some of these tools more user-friendly, for example, by including Arabic numerals in place of Roman numerals?
- 1.2.5. Librarians realize that the quality of the particular publication relies on the creativity of its author. However, librarians are relatively uncertain as to the expectations of the legal treatise author when it comes to format type. Because younger lawyers and law students rely heavily on digital copies of legal sources, authors should be knowledgeable about all of the formats in which their information might be published. How do vendors encourage authors to publish their works in both print and digital formats?
- 1.2.6. Librarians have advocated the use of new technologies whenever it is efficient to do so. Looking forward, many librarians see e-books and smart phones as innovative new containers for information sources. What plans do vendors have in the next 10 years to use these new devices or others now in the development stage? How can vendors work with librarians and library users to make sure that these new products provide sufficient usability and access, such as allowing library users of e-books to highlight text and to take notes?

- 1.2.7. Online sources are different from printed materials in one significant respect – ownership. Whereas libraries own books, they have a mere license to the digital content offered by vendors. What measures can vendors put in place to ensure long-term access and authenticity to these digital publications? If print publications cease, what systems or processes can librarians and vendors create to ensure that access to legal information – especially material cited by case law precedent – will be maintained for posterity's sake?

1.3. Vendors' Strategic Planning: Pricing Models

Rationale: Law librarians typically perform a delicate balancing act, weighing the information needs of users with the budgetary strictures of their parent organizations. Legal information costs that are not sustainable over the long term upset this balance, resulting in either underserved users or budget overages. In both scenarios, there usually is a net loss to the library, its users, and its parent organization.

- 1.3.1. The economic climate these days is uncertain, but librarians still must plan budgets in this dynamic environment. What can vendors tell librarians to expect with regard to subscription prices during the next few years?
- 1.3.2. There is an expectation among many in the law library community that digital publications should be less expensive than their print counterparts. How do vendors explain how pricing is set for the print and online subscriptions to the same publication? Does format type dictate what overhead expenses are passed down to libraries and other purchasers? If so, in what way?
- 1.3.3. Some librarians are paring down or canceling subscriptions for budgetary reasons. Some libraries are closing permanently. In this environment, one attractive possibility for libraries is the implementation of shared collection arrangements among regional libraries. What methods can vendors use to negotiate creatively with multiple libraries in a cooperative venture to serve regional needs, rather than contract library by library?
- 1.3.4. Librarians observe that the traditional pricing models for products do not always fit changes in both current technology and end users' practices. For example, the assumption that the cost of the legal research database can be recovered from clients is increasingly incorrect. How can vendors provide additional flexibility in subscription plans in order to suit a variety of library types?
- 1.3.5. In recent years cost management companies have increasingly encouraged law firm administrators to hire them for their expertise in negotiating renewal contracts as well as renegotiating current, in-force contracts with computer assisted legal research vendors. Cost management companies assert inside knowledge of peer institutions' contract terms with CALR vendors and offer a free benchmark analysis to any firm in exchange for its own confidential contract terms with its CALR vendors. Some cost management companies state that the major CALR vendors cooperate with them by agreeing in writing

to release law firms from non-disclosure clauses in their original contracts. Many administrators find these claims tempting. Librarians are often drawn into the process when they are asked to furnish their library's various usage statistics and contract coverage details to a cost management company. In light of this trend, increasing numbers of librarians are interested in vendors' policies on cost management companies so that they can be well versed and prepared with facts when an administrator expresses interest in hiring a cost management company to negotiate or renegotiate contracts with CALR vendors. What information can vendors provide to law librarians about such policies, procedures, and relationships?

1.4. Vendor Practices: Customer Service

Rationale: Law librarians historically have interacted with experienced customer service representatives from vendors. Most librarians' expectations are that this high level of customer service will continue.

- 1.4.1. Occasionally, vendors' customer service representatives appear to know relatively little about particular items. Unfortunately, others appear to not have an understanding of the legal system or law libraries. How do vendors ensure that librarians' first points of contact know sufficient details about publications or subscription plans? What type of training, especially about law libraries and the legal system, do sales representatives typically receive?
- 1.4.2. Librarians heavily rely on vendors' internal accounting and subscription systems, yet these systems sometimes are prone to error or inefficiency. What plans do vendors have in the next few years for improving such systems?
- 1.4.3. Librarians pride themselves on being the "go to" people for evaluating and ordering legal information sources for their parent organizations. On occasion, however, vendors directly market to other individuals in the organization or work with third-party management consultants, with the effect of bypassing the librarian. Situations such as these have the tendency to cause some discontent or embarrassment. How can vendors support librarians' roles in these instances? What expectations should librarians have regarding direct marketing by vendors?

1.5. Vendor Practices: Product Quality Control, Usability and Features

Rationale: Because of the nature of legal materials and the commensurate need for their authenticity and reliability, law librarians expect very high quality in legal publishing. Additionally, given the pricing of many legal information databases, both end users and librarians expect digital information to be easy to use.

- 1.5.1. Law librarians occasionally see books bound incorrectly and databases launched before they are fully tested. What quality control mechanisms is the legal publishing industry typically using to ensure that products meet the needs of their users?

- 1.5.2. Librarians recall that timeliness, reliability, and the reputation of the author/publisher are three of the core principles of the selection of library materials. What specific procedures or processes do vendors have in place to ensure that these principles continue to be the cornerstones of the legal publishing industry?
- 1.5.3. Librarians have a wealth of experience in testing vendors' databases and assisting end-users with them. What mechanisms do vendors have in place for tapping the skills of law librarians in developing new or improved online tools?
- 1.5.4. AALL and other groups are very concerned about the ability of a publisher to verify that digital information is "authentic" and/or "official." What steps are vendors taking to ensure authenticity and official status (when possible)?

1.6. Vendor Practices: Standardization

Rationale: Law librarians understand that in many instances standardization creates efficiency.

- 1.6.1. Some librarians have noted that certain print materials, especially the binder size of looseleaf publications, could be standardized for ease-of-use. (For example, standard three ring binders could be used for all looseleaves.) What printing standards might vendors be able to adopt in the near future?
- 1.6.2. Many librarians work with their parent organizations' contracting and procurement departments. Standardized subscription agreements would be especially helpful here. The SERU (Shared Electronic Resource Understanding) proposal is one such example. How can vendors and librarians work together to streamline standard terms for such agreements?
- 1.6.3. Some legal publications are destined to become "online only." What standardized measures can vendors put in place to ensure long-term digital preservation and access?
- 1.6.4. Librarians need to better understand how the digital information they buy from vendors is used, and to be able to compare usage of resources produced by various publishers. What plans do vendors have for providing usage statistics that comply with the standards of Project Counter (www.projectcounter.org)? If vendors are not working toward compliance, why not, and what alternatives do they intend to offer?

1.7. Vendor Practices: Product Information Availability to Customers

Rationale: Law librarians can make informed decisions about the acquisition and retention of library materials, including databases, only when full details are available about them. Similarly, law librarians and end-users rely on sufficient information about research tools when deciding whether or not to use them.

- 1.7.1. Occasionally, librarians find it difficult to determine what exactly has been changed from one supplement to another. What strategies can vendors use to

include specifics about what is being changed in the issuance of the new supplement? How can vendors provide periodic updates on new or updated content in databases?

1.7.2. Legal publishers update large comprehensive sets of encyclopedias and treatises on a routine basis. While all librarians appreciate that recompiled volumes are newly updated, there is also a need to provide librarians with a better understanding of the reasons for recompilation. How can vendors provide additional information on the recompilation process for larger sets?

1.7.3. End-users of databases routinely demand advanced knowledge of how much a search might cost. Although many database providers give at least an estimate of the costs, what additional steps can vendors take to provide additional details?

1.7.4. Librarians typically are very curious about how information is created and used. How do vendors evaluate their customers and accommodate their needs?

2. What 5 things would you like to tell legal information vendors about your library and its users?

2.1. Understanding of Library Users

Rationale: Librarians often work closely with diverse groups of customers: deans and students; managing partners and summer law clerks; and judges and self-represented litigants. Librarians know that their customers respond in a variety of ways—some expected and some not—to their interactions with legal information products. Consequently, librarians feel it is critical to recall the purpose of legal information and the needs of the end-users.

2.1.1. End-users are greatly concerned about the cost of legal research. Many solo attorneys can no longer afford print materials or even a limited CALR subscription. Clients increasingly will not pay for online legal research, so librarians and end-users are continually searching for new ways to maintain cost-effective research.

2.1.2. Library users are turning to newer online information sources, such as the Social Science Research Network (SSRN), institutional repositories, and Google's products, for their research. Many are finding that these offerings are quicker and easier than commercial platforms.

2.1.3. The bench and other law library users currently rely on the print versions of both primary and secondary sources as either the "official" versions or the most authentic ones available. Library users are beginning to understand that if there are significant changes in the legal publishing industry with respect to print publication, future generations may be at risk of losing access to precedent and cited authority. When users must rely on electronic access to

legal information, they are coming to demand its permanence, authentication, and assurance of reliability.

- 2.1.4. Non-lawyers, including non-English speakers, who use public law libraries require and ask for printed and online materials that are geared specifically for their levels of familiarity with the legal system
- 2.1.5. Many types of library customers, some of whom reside at the margins of the legal profession or of society, are uncomfortable with using online legal materials. There is a strong, continuing need for improved database design, additional training on database usage, and the availability of print-based resources.
- 2.1.6. Legal professionals and law students are sensitive to societal equity issues. They may perceive real or imagined inequalities if vendors treat different types of law schools or libraries differently. One area of concern identified by some librarians relates to differences in how vendors interact with top-ranked law schools as compared to lower-ranked ones.
- 2.1.7. Repeat library users, such as law students, rely on the stability and continued access provided by legal research databases and the support for them offered by the vendors' customer service personnel. Most library users tend to dislike sudden changes, such as limitations on training opportunities, especially if they occur at inopportune times, for example, in mid-semester.
- 2.1.8. Some library users have unique research needs that can be addressed fairly easily by additional planning and foresight. For example, law students prefer e-books that allow them to add notes and license agreements that allow usage through the time that they will be studying for the bar exam.

2.2. Understanding of Libraries' Budgets and Parent Organizations

Rationale: Libraries in most instances are part of larger entities, to which librarians owe various obligations. Librarians must propose sound budgets and follow the mission and goals of the parent institution. For this reason, librarians hope to foster a greater awareness of the larger contexts in which libraries operate.

- 2.2.1. Each law library is unique, possessing different collections for varying missions and serving diverse user populations. Budgets, too, vary widely among libraries. As a result, librarians desire the widest possible array of product options and pricing plans. Librarians wish that others acknowledge libraries as unique and distinctive resources.
- 2.2.2. Most libraries approach the budgeting process from a zero-sum perspective, especially in times of economic crisis. A librarian usually must eliminate one subscription in order to afford a price increase for another product or a new title to purchase. The cancellation of such subscriptions, especially when done on a larger scale, has repercussions for libraries and vendors.

2.2.3. Because of libraries' varying missions, some place a high priority on information access, while others emphasize information preservation. Therefore, librarians need information products that match the requirements of both purposes: efficient, easy use *and* long-term availability.

2.3. Understanding of Librarians' Professional Roles

Rationale: Librarians may work in many different capacities, but all have in common the need to balance the expectations of users with the constraints of the parent organization. Librarians appreciate vendor practices and policies that make it easier to balance these competing priorities.

2.3.1. Librarians hold advanced degrees and are considered professionals by their peers and customers. For that reason, it is especially problematic when someone bypasses the library staff and works directly with others in the parent organization or with a third-party management consultant. Librarians frankly view this as blatantly unprofessional.

2.3.2. Law librarians serve unique roles within the library itself—from cataloging to research training. Librarians hope that others comprehend and acknowledge such differences in librarians' job responsibilities.

2.3.3. Librarians are qualified and prepared to offer their professional opinions on information use and design, ranging from the use of foreign and international legal materials to database design. Librarians are well prepared and eminently qualified to participate in the design of information resources.

2.3.4. Librarians often manage and negotiate complex subscription contracts, tasks which consume significant amounts of time. It is crucial that these contracting experiences run smoothly and trouble-free. Librarians and finance departments in libraries' parent organizations would like to see more streamlined and transparent contracting procedures.

2.3.5. Librarians frequently have heavy workloads. Therefore, some suggestions for more efficient acquisitions include enhanced product websites and publication catalogs; additional information about updates; and simplified billing and invoicing.